



TTAB

**TRADEMARK TRIAL & APPEAL BOARD
IN THE UNITED STATES PATENT AND TRADEMARK OFFICE**

In re Application of: :
Rally Manufacturing, Inc. : Law Office: 109
Serial No. 78/576416 : Examining Attorney: Julie M. Guttadauro
Filed: February 28, 2005 : Atty Dkt: 8209.672
Mark: DURA GUARD

APPLICANT'S APPEAL BRIEF

Trademark Trial and Appeal Board
Trademark Assistance Center
Madison East, Concourse Level Room C 55
600 Dulany Street
Alexandria, VA 22314

Dear Sir:

Applicant submits the following remarks in support of its appeal from the Final Refusal of the Examining Attorney.

In the Final Office Action sent via email on June 13, 2006, the Examining Attorney asserted that applicant's mark so resembles the mark shown in Registration No. 2,416,438 ("the '438 registration") as to be likely to cause confusion. Applicant respectfully disagrees, and requests that the Board reverse the refusal.

Likelihood of confusion under the Lanham Act, 15 U.S.C. § 1052(d), is a legal determination based upon factual underpinnings. *On-Line Careline, Inc. v. Am. Online, Inc.*, 229 F.3d 1080, 1084 (Fed. Cir. 2000). The question is determined on a case-specific basis, applying the thirteen factors set forth in *In re E. I. DuPont de Nemours & Co.*, 476 F.2d 1357, 1361 (C. C.P.A. 1973), without deference. *In re Int'l Flavors & Fragrances*.

Inc., 183 F.3d 1361, 1365 (Fed. Cir. 1999). At the same time, the Federal Circuit reviews factual underpinnings for that legal conclusion, namely the *DuPont* factors, for substantial evidence. *Dickinson v. Zurko*, 527 U.S. 150, 156, 144 L. Ed. 2d 143, 119 S. Ct. 1816 (1999). Evidence is substantial if “a reasonable person might find that the evidentiary record supports the agency’s conclusion.” *On-Line Careline*, 229 F.3d at 1085.

Factors to be considered when testing for likelihood of confusion include: (1) The similarity or dissimilarity of the marks in their entireties as to appearance, sound connotation and commercial impression; (2) The similarity or dissimilarity and nature of the goods or services as described in an application or registration or in connection with which a prior mark is in use; (3) The similarity or dissimilarity of established, likely-to-continue trade channels; (4) The conditions under which and buyers to whom sales are made, i.e. 'impulse' vs. careful, sophisticated purchasing; (5) The fame of the prior mark (sales, advertising, length of use); (6) The number and nature of similar marks in use on similar goods; (7) The nature and extent of any actual confusion; (8) The length of time during and conditions under which there has been concurrent use without evidence of actual confusion; (9) The variety of goods on which a mark is or is not used (house mark, 'family' mark, product mark); (10) The market interface between applicant and the owner of a prior mark; (11) The extent to which applicant has a right to exclude others from use of its mark on its goods; (12) The extent of potential confusion, i.e., whether *de minimis* or substantial; and (13) any other established fact probative of the effect of use. *In re E. I. DuPont*, 476 F.2d at 1361.

Applicant addresses those factors most relevant to the present case:

Factor 1: The marks are visually dissimilar and present different commercial impressions.

A determination of similarity or dissimilarity under *DuPont* requires an examination of the marks in their entirety; the Board must consider all relevant factors pertaining to the marks' appearance, sound, and connotation. *See Dupont*, 476 F.2d at 1361.

Applicant seeks to register the composite mark DURA GUARD. The '438 registration is for the single word DURAGARD. Applicant's mark includes two separately spoken and visually spaced words "dura" and "guard". By contrast, the mark of the '438 registration is a single word. Thus, the marks have different spellings, and present a different visual impression. An ordinary consumer of the goods would not confuse visually dissimilar marks. Applicant's mark creates a commercial impression that is distinguishable from the mark in the '438 registration.

Factor 2: The goods are non-competitive and non-related.

Applicant seeks to register the mark DURA GUARD for "floor mats for land vehicles" in Class 27. Thus, applicant's goods are used as 'mats and matting' for covering the interior flooring of vehicles, thereby falling under Class 27. By contrast, the goods listed in the '438 registration only include "semi-fitted and fitted covers for vehicles" in Class 12.

Applicant's floor mats are non-competitive with registrant's vehicle covers (i.e. a consumer would not purchase a vehicle car cover as a substitute for a floor mat). Moreover, the goods at issue are functionally unrelated (i.e., a consumer would not use a vehicle cover in connection with a floor mat).

Nevertheless, the Examining Attorney argues that applicant's goods and registrant's goods are related "because both are accessories for vehicles and used for the purposes of protecting the interior of a vehicle." See June 13, 2006 Final Office Action, p. 3. Such reasoning is simply not correct. The goods in question are NOT both directed to protecting the interior of a vehicle. Rather, the '438 registration is directed to covers for vehicles – i.e. car covers which cover and protect the exterior of a vehicle. Indeed, the very exhibits submitted by the Examining Attorney indicate that third party's draw a distinction between interior accessories and exterior accessories. For example, the Examining Attorney attached web pages from AutoAnything.com, which categorizes automotive parts into different groups including "Exterior Accessories", "Interior Accessories" and "Performance Parts". See June 13, 2006 Final Office Action Exhibits.

Upon review of the evidence attached to the Final Office Action, the Examining Attorney seems to argue that the '438 registration includes 'seat covers' – it does not. A seat cover and a vehicle cover are not the same. The '438 registration only includes covers for vehicles, commonly known in the industry as a car cover. A cover for vehicles does not encompass seat covers, steering wheel covers, or any other type of cover. Nor should the scope of the '438 registration be so expanded.

Moreover, the Examining Attorney's reasoning is contrary to case law, which is replete with examples of similar or identical marks which were permitted to co-exist in the market despite being for goods in the same industry. See *Knaack Mfg. Co. v. Rally Accessories*, 955 F. Supp. 991, 1000 (D. Ill. 1997) ("The Court rejects Knaack's argument that calling the Knaack line and Rally line of products motor vehicle accessories is sufficient to show a similarity of products."); *Renaissance Greeting Cards, Inc. v. Dollar*

Tree Stores, Inc., 405 F. Supp. 2d 680, 699 (D. Va. 2005) (concurrent use of RENAISSANCE mark for greeting cards and RENAISSANCE for gift bags, gift wrap and the other paper products permissible); *IDV North America, Inc. v. S & M Brands, Inc.*, 26 F. Supp. 2d 815, 824 (E.D.Va. 1998) (use of the mark BAILEY's for low priced cigarettes permissible over use of the mark BAILEY's for liqueurs); *Edison Bros. Stores, Inc. v. Cosmair, Inc.*, 651 F.Supp. 1547, 1562-63 (S.D.N.Y. 1987) (use of the mark NOTORIOUS for perfume permissible over use of the mark of NOTORIOUS for women's clothing and shoes); *Riva Boats Int'l S.p.a. v. Yamaha Motor Corp.*, 223 U.S.P.Q. 183 (C.D.Cal. 1983) (defendant's use of RIVA on motor scooters permissible over plaintiff use of RIVA mark on luxury boats because plaintiff's mark is weak); *Vitarroz Corp. v. Borden, Inc.*, 644 F.2d 960, 966 (2d Cir. 1981) (concurrent use of BRAVOS mark for crackers and BRAVOS for tortilla chips permissible); *American Optical Corp. v. American Olean Tile Co.*, 185 U.S.P.Q. 405, 409-10 (S.D.N.Y. 1974) (concurrent use of AO for anti-skid floor coating and AO for ceramic tile products permissible); *Allstate Ins. Co. v. Allstate Inv. Corp.*, 210 F.Supp. 25, 28 (W.D.La. 1962) (concurrent use of ALLSTATE mark in insurance industry and defendant's use of same mark in mortgage brokerage permissible).

Of particular relevance is the *Knaack Manufacturing* case. In that case, a registration was awarded for the mark WEATHERGUARD (Reg. No. 1,661,625) for use with vehicle storage boxes etc. Another registration for the mark WEATHERGUARD was issued for use with vehicle covers (Reg. No. 2,196,144). In that case, the district court found that there was no likelihood of confusion between the identical marks "WEATHERGUARD" in the automotive component market. The court held that the

products were not similar, and specifically rejected the argument that any line of automotive product accessories may show similarity. *Knaack Mfg.*, 955 F.Supp at 1660.

The court determined that although both products were automotive accessories, they were significantly dissimilar given they were functionally unrelated and non-competitive.

Likewise in the present case, the goods at issue are functionally unrelated and not competitive. A consumer would not purchase a floor mat as a substitute for a vehicle cover. Nor would a consumer use a vehicle cover in connection with a floor mat.

This factor weighs in favor of applicant.

Factor 4: Consumers are likely to exercise care in purchasing vehicle covers.

Conditions under which goods or services are encountered in the marketplace, and under which purchasing decisions are made, must be considered when evaluating likelihood of confusion. *Stouffer Corp. v. Health Valley Natural Foods, Inc.*, 1 U.S.P.Q.2d 1900 (TTAB 1986); see also *In re Software Design, Inc.*, 220 U.S.P.Q. 662 (TTAB 1983).

The goods listed in the '438 registration are not goods which buyers purchase on an impulse. This precise issue was discussed by the court in *Knaack, supra*, which stated:

Plaintiff has failed to prove that consumers are not likely to exercise care in purchasing a \$ 49 to \$ 79 vehicle cover. *Nike, Inc. v. Just Did It Enterprises*, 6 F.3d 1225, 1230 (7th Cir. 1993) ("We cannot agree that as a matter of law consumers routinely purchase a \$ 39.95 item without looking carefully at the product information."). Because car covers at mass merchandisers are sold at different price points and in competition

with competing covers, consumers can be expected to inspect the product information before purchasing. Such inspection is presumed because car covers come in different sizes for different cars. Car covers are designed for different elements, such as rain and snow. Therefore, someone driving a Lincoln Town Car must make certain that they are buying the right size and quality of cover to meet their needs.

Knaack Mfg., 955 F. Supp. at 1001.

This factor always weighs in favor of applicant.

Factor 6: Registrant's mark is relatively weak.

The Examining Attorney acknowledged that the cited registration is weak. See June 13, 2006 Final Office Action, p. 2. As such, applicant's assertion that the cited registration is relatively weak is not in dispute.

There are numerous applications or registrations for the mark DURAGARD, or a variation thereof, for various products. For example, there are 11 applications for the mark DURAGUARD which have been allowed or registered. See Appendix, pgs 1-11. Furthermore, there are 8 applications for the mark DURA-GARD which have been allowed or registered. See Appendix, pgs. 12-19. Yet another five applications were allowed or registered for the mark DURA-GUARD. See Appendix, pgs. 20-24.

Of note, the mark DURAGUARD for "oil filters for automotive engines" in Class 12, Registration No. 1,633,965, was registered prior to registration of the '438 registration. See Appendix, p. 1. Thus, the '438 registration was deemed acceptable over the '965 registration, despite both marks being for goods in the automotive industry.

Moreover, both marks are for goods which fall into Class 12. Thus the '438 registration coexists not only with numerous other marks of identical or near identical nomenclature, it also co-exists with an additional automotive related good within the same class, 012. Nevertheless, the Examiner attorney affords greater scope of exclusivity for the purposes of supporting the refusal.

The Examining Attorney commented on the '965 registration, arguing that "a distinction is made in examination between auto parts and auto accessories." *Id.* However, the goods of the '438 registration and those listed in the '965 registration both fall within Class 12, whereas applicant's goods fall within a different class, 27. Thus, for purposes of examination, there is an even greater distinction between applicant's goods and those goods listed in the '438 registration.

Specifically, applicant's mark falls within Class 27, which includes "carpets, rugs, mats and matting, linoleum and other materials for covering existing floors; wall hangings". Thus, there is a distinction made in examination and classification with respect to applicant's goods and those goods listed in the '438 registration. As such, applicant submits that the goods listed in the present application and the goods listed in the '438 registration are quite different, and at the very least farther from the other goods and services within class 012.

While the Examining Attorney agrees that the '438 registration is weak in context of Class 12, the Examining Attorney draws the opposite conclusion with respect to applicant's mark DURA GUARD in Class 27 to support the refusal. Specifically, the Examining Attorney states:

Applicant's goods, namely, "floor mats for land vehicles" are designated within international class 027. This is the class for 'floor coverings'. The only mark in class 027 is "Duraguard" for "vinyl floor covering". The only commonality between these goods is that they are floor coverings but their industries are unrelated. Therefore, **the mark is not weak in the context of class 027** as applicant's attorney suggests.

See January 8, 2007 Office Action, p. 2 (emphasis added).

Counsel for Applicant agrees with the Examining Attorney's rationale that the Applicant's goods are distinct from vinyl floor coverings; the likely reason why the only mark within Class 027 was not applied as basis for refusal. Furthermore, Counsel for applicant does not argue that its mark is particularly weak in the context of Class 27 as there is only one other mark within this class. Rather, Applicant and the Examining Attorney, agree that the mark is weak globally and within Class 12, in which the '438 registration is classified. Yet the Examiner appears to refuse to accept the weakness of the '438 registration, either globally, or within class 012, as it relates to Applicants goods in another class. It is inconceivable how one, on the one hand, can concede that '438 registration is globally weak within the universe of all goods and services¹, co-exists with another identical mark each associated with automotive products within the same class (012), and other the other hand, for the purposes of Examination, argue that the mark is sufficiently strong to prevent a similar, not identical, mark from registering with different goods in an entirely different class 027. Applicant submits that applying the Examining Attorney's own reasoning, the cited '438 registration is weak both globally and within the context of Class 12, and thus entitled to limited scope of protection. Therefore, the '438

¹ The Examining Attorney also agrees with this assertion. See June 13, 2006 Final Office Action.

registration can not be the basis to sustain refusal of Applicant's goods in another class and the refusal should be reversed.

Factors 7, 8 and 12: There is no evidence of any actual confusion despite concurrent use.

Applicant is aware of no actual confusion, either de minimis or otherwise, despite concurrent use of its mark and the mark of the '438 registration. Applicant is aware of no instances of confusion caused by the concurrent use of the subject marks. The Examining Attorney has presented no evidence that would support the conclusion that the two marks would create a likelihood of confusion. Applicant is not aware of any such confusion.

There is no indication that the two marks have caused, or are likely to cause, confusion. Nor has any evidence been presented that supports the conclusion that applicant's mark and the mark shown in the '438 registration are likely to cause confusion.

Factor 9: The mark of the '438 registration is not a house mark.

The '438 registration is not used as a house mark encompassing a wide variety of goods. Rather, it is only for a relatively specific type of goods, i.e. semi-fitted and fitted covers for vehicles. As such, the extent to which the owner of the '438 registration has the right to exclude others from using its mark is limited only to use on the specific goods listed therein given the narrow scope of the registration.

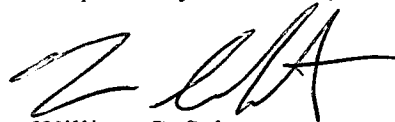
Factor 11: Applicant claims common law rights in its mark.

Applicant is currently using its mark DURA GUARD for floor mats for land vehicles, and therefore currently has common law rights in the mark. Applicant is unaware of any other use of the mark DURA GUARD for floor mats, and claims the right to exclude all others from using the mark for such goods.

CONCLUSION

In light of the arguments herein and of record, applicant respectfully requests reversal of the Examining Attorney's refusal. It is believed that no fees are due with this submission. Should that determination be incorrect, then please debit account 50-0548 and notify the undersigned.

Respectfully submitted,

A handwritten signature in black ink, appearing to read 'W. C. Schrot', written over a horizontal line.

William C. Schrot
Attorney for Applicant

Berenato, White & Stavish, LLC
6550 Rock Spring Drive, Ste. 240
Bethesda, Maryland 20817
Telephone: (301) 896-0600
Facsimile: (301) 896-0607



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Typed Drawing

Word Mark	DURAGUARD
Goods and Services	IC 012. US 019. G & S: oil filters for automotive engines. FIRST USE: 19880927. FIRST USE IN COMMERCE: 19880927
Mark Drawing Code	(1) TYPED DRAWING
Design Search Code	
Serial Number	74039062
Filing Date	March 16, 1990
Current Filing Basis	1A
Original Filing Basis	1A
Published for Opposition	November 13, 1990
Registration Number	1633965
Registration Date	February 5, 1991
Owner	(REGISTRANT) General Motors Corporation CORPORATION DELAWARE 3044 West Grand Boulevard Detroit MICHIGAN 48202
Attorney of Record	TIMOTHY G. GORBATOFF
Type of Mark	TRADEMARK
Register	PRINCIPAL
Affidavit Text	SECT 15. SECT 8 (6-YR). SECTION 8(10-YR) 20010321.
Renewal	1ST RENEWAL 20010321
Live/Dead Indicator	LIVE



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Typed Drawing

Word Mark	DURAGUARD
Goods and Services	IC 012. US 019. G & S: Wear Plates for Railway Vehicles. FIRST USE: 19770930. FIRST USE IN COMMERCE: 19770930
Mark Drawing Code	(1) TYPED DRAWING
Design Search Code	
Serial Number	73385327
Filing Date	September 13, 1982
Current Filing Basis	1A
Original Filing Basis	1A
Published for Opposition	May 24, 1983
Registration Number	1248283
Registration Date	August 16, 1983
Owner	(REGISTRANT) Dayco Corporation CORPORATION MICHIGAN 333 W. First St. Dayton OHIO 45402 (LAST LISTED OWNER) DAYCO PRODUCTS, INC. CORPORATION ASSIGNEE OF DELAWARE 1 PRESTIEGE PLACE MIAMISBURG OHIO 45342
Assignment Recorded	ASSIGNMENT RECORDED
Attorney of Record	Joseph V. Tassone
Prior Registrations	1098067
Type of Mark	TRADEMARK
Register	PRINCIPAL
Affidavit Text	SECT 15. SECT 8 (6-YR). SECTION 8(10-YR) 20031119.
Renewal	1ST RENEWAL 20031119
Live/Dead Indicator	LIVE



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(Use the "Back" button of the Internet Browser to return to TESS)

Word Mark	DURAGUARD
Goods and Services	IC 018. US 001 002 003 022 041. G & S: Protective chemical coating pre-applied to and sold as a feature of carrying cases, luggage, suitcases, garment bags for travel, all purpose sports bags, toiletry cases sold empty, shoulder bags, carrying cases, tote bags, rolling tote bags, duffle bags, rolling duffle bags, backpacks, and rolling backpacks
Standard Characters Claimed	
Mark Drawing Code	(4) STANDARD CHARACTER MARK
Design Search Code	
Serial Number	78704052
Filing Date	August 31, 2005
Current Filing Basis	1B
Original Filing Basis	1B
Published for Opposition	October 3, 2006
Owner	(APPLICANT) TRAVELPRO INTERNATIONAL, INC. CORPORATION FLORIDA 700 Banyan Trail Boca Raton FLORIDA 33431
Attorney of Record	Robert J. Sacco
Type of Mark	TRADEMARK
Register	PRINCIPAL
Live/Dead Indicator	LIVE



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Word Mark	DURAGUARD
Goods and Services	IC 005. US 006 018 044 046 051 052. G & S: Insect repellents
Standard Characters Claimed	
Mark Drawing Code	(4) STANDARD CHARACTER MARK
Design Search Code	
Serial Number	78678677
Filing Date	July 26, 2005
Current Filing Basis	1B
Original Filing Basis	1B
Published for Opposition	April 11, 2006
Owner	(APPLICANT) W.F. YOUNG, INCORPORATED CORPORATION MASSACHUSETTS 302 Benton Drive East Longmeadow MASSACHUSETTS 01028
Attorney of Record	Arthur F. Dionne, Esq.
Type of Mark	TRADEMARK
Register	PRINCIPAL
Live/Dead Indicator	LIVE



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Typed Drawing

Word Mark	DURAGUARD
Goods and Services	IC 009. US 021 023 026 036 038. G & S: analytical chemistry laboratory equipment, namely, a protective pre-column used with capillary chromatography instruments. FIRST USE: 19990201. FIRST USE IN COMMERCE: 19990400
Mark Drawing Code	(1) TYPED DRAWING
Design Search Code	
Serial Number	75773696
Filing Date	August 12, 1999
Current Filing Basis	1A
Original Filing Basis	1B
Published for Opposition	June 20, 2000
Registration Number	2443921
Registration Date	April 17, 2001
Owner	(REGISTRANT) J&W Scientific, Inc. CORPORATION DELAWARE 91 Blue Ravine Road Folsom CALIFORNIA 95630
Assignment Recorded	ASSIGNMENT RECORDED
Attorney of Record	Molly Buck Richard
Type of Mark	TRADEMARK
Register	PRINCIPAL
Live/Dead Indicator	LIVE



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Typed Drawing

Word Mark	DURAGUARD
Goods and Services	IC 016. US 002 005 022 023 029 037 038 050. G & S: adhesive-backed property identification tags. FIRST USE: 19980528. FIRST USE IN COMMERCE: 19980528
Mark Drawing Code	(1) TYPED DRAWING
Design Search Code	
Serial Number	75531439
Filing Date	August 5, 1998
Current Filing Basis	1A
Original Filing Basis	1A
Published for Opposition	May 18, 1999
Registration Number	2269080
Registration Date	August 10, 1999
Owner	(REGISTRANT) Tricor Direct, Inc. CORPORATION DELAWARE 20 Thompson Road Branford CONNECTICUT 064052842
Attorney of Record	Leslie Bertagnolli
Type of Mark	TRADEMARK
Register	PRINCIPAL
Affidavit Text	SECT 15. SECT 8 (6-YR).
Live/Dead Indicator	LIVE



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Typed Drawing

Word Mark	DURAGUARD
Goods and Services	IC 019. US 001 012 033 050. G & S: non-metallic building materials, namely, molded grating and molded frame for trench drains. FIRST USE: 19990303. FIRST USE IN COMMERCE: 19990303
Mark Drawing Code	(1) TYPED DRAWING
Design Search Code	
Serial Number	75327889
Filing Date	July 21, 1997
Current Filing Basis	1A
Original Filing Basis	1B
Published for Opposition	July 21, 1998
Registration Number	2261491
Registration Date	July 13, 1999
Owner	(REGISTRANT) Strongwell Corporation CORPORATION VIRGINIA 400 Commonwealth Avenue Bristol VIRGINIA 242013820 (LAST LISTED OWNER) STRONGWELL LENOIR CITY, INC. CORPORATION VIRGINIA 3621 INDUSTRIAL PARK DRIVE LENOIR CITY VIRGINIA 37771
Assignment Recorded	ASSIGNMENT RECORDED
Attorney of Record	Arlene D. Hanks
Prior Registrations	1193634;1699821;AND OTHERS
Type of Mark	TRADEMARK
Register	PRINCIPAL
Affidavit Text	SECT 15. SECT 8 (6-YR).
Live/Dead Indicator	LIVE



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Typed Drawing

Word Mark	DURAGUARD
Goods and Services	IC 002. US 006 011 016. G & S: protective polymer coating for application to laminates for furniture products. FIRST USE: 19950914. FIRST USE IN COMMERCE: 19950914
Mark Drawing Code	(1) TYPED DRAWING
Design Search Code	
Serial Number	74618341
Filing Date	January 4, 1995
Current Filing Basis	1A
Original Filing Basis	1B
Published for Opposition	September 5, 1995
Registration Number	2099812
Registration Date	September 23, 1997
Owner	(REGISTRANT) Sauder Woodworking Co. CORPORATION OHIO 502 Middle Street Archbold OHIO 43502
Attorney of Record	Gregg W. Emch
Type of Mark	TRADEMARK
Register	PRINCIPAL
Affidavit Text	SECT 15. SECT 8 (6-YR).
Live/Dead Indicator	LIVE



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Typed Drawing

Word Mark	DURAGUARD
Goods and Services	IC 007. US 013 019 021 023 031 034 035. G & S: dishwasher racks sold as a unit with dish washing machines. FIRST USE: 19920800. FIRST USE IN COMMERCE: 19920800
Mark Drawing Code	(1) TYPED DRAWING
Design Search Code	
Serial Number	74276766
Filing Date	May 18, 1992
Current Filing Basis	1A
Original Filing Basis	1B
Published for Opposition	October 20, 1992
Registration Number	1897957
Registration Date	June 6, 1995
Owner	(REGISTRANT) MAYTAG CORPORATION CORPORATION DELAWARE 403 West Fourth Street North Newton IOWA 50208
Type of Mark	TRADEMARK
Register	PRINCIPAL
Affidavit Text	SECT 15. SECT 8 (6-YR). SECTION 8(10-YR) 20050203.
Renewal	1ST RENEWAL 20050203
Live/Dead Indicator	LIVE



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Typed Drawing

Word Mark	DURAGUARD
Goods and Services	IC 011. US 013. G & S: toilet seats. FIRST USE: 19900411. FIRST USE IN COMMERCE: 19900411
Mark Drawing Code	(1) TYPED DRAWING
Design Search Code	
Serial Number	74022433
Filing Date	January 25, 1990
Current Filing Basis	1A
Original Filing Basis	1B
Published for Opposition	March 26, 1991
Registration Number	1728562
Registration Date	October 27, 1992
Owner	(REGISTRANT) Bemis Manufacturing Company CORPORATION WISCONSIN 300 Mill Street Sheboygan Falls WISCONSIN 53085
Attorney of Record	DAVID R. PRICE
Type of Mark	TRADEMARK
Register	PRINCIPAL
Affidavit Text	SECT 15. SECT 8 (6-YR). SECTION 8(10-YR) 20020814.
Renewal	1ST RENEWAL 20020814
Live/Dead Indicator	LIVE



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Typed Drawing

Word Mark	DURAGUARD
Goods and Services	IC 027. US 002. G & S: VINYL FLOOR COVERING. FIRST USE: 19891016. FIRST USE IN COMMERCE: 19891016
Mark Drawing Code	(1) TYPED DRAWING
Design Search Code	
Serial Number	74011198
Filing Date	December 15, 1989
Current Filing Basis	1A
Original Filing Basis	1A
Published for Opposition	August 14, 1990
Registration Number	1621357
Registration Date	November 6, 1990
Owner	(REGISTRANT) AMERICAN BILTRITE INC. CORPORATION DELAWARE 57 RIVER STREET WELLESLEY HILLS MASSACHUSETTS 02181 (LAST LISTED OWNER) CONGOLEUM CORPORATION CORPORATION ASSIGNEE OF DELAWARE 3705 QUAKERBRIDGE ROAD, SUITE 211 POST OFFICE BOX 3127 MERCERVILLE NEW JERSEY 08619
Assignment Recorded	ASSIGNMENT RECORDED
Attorney of Record	ANTHONY F. LO CICERO
Type of Mark	TRADEMARK
Register	PRINCIPAL
Affidavit Text	SECT 15. SECT 8 (6-YR). SECTION 8(10-YR) 20010208.
Renewal	1ST RENEWAL 20010208
Live/Dead Indicator	LIVE



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(Use the "Back" button of the Internet Browser to return to TESS)

Word Mark	DURA-GARD
Goods and Services	IC 009. US 021 023 026 036 038. G & S: protective industrial gloves. FIRST USE: 19950901. FIRST USE IN COMMERCE: 19950901
Mark Drawing Code	(3) DESIGN PLUS WORDS, LETTERS, AND/OR NUMBERS
Design Search Code	26.11.21 - Rectangles that are completely or partially shaded 26.17.01 - Bands, straight; Bars, straight; Lines, straight; Straight line(s), band(s) or bar(s) 26.17.05 - Bands, horizontal; Bars, horizontal; Horizontal line(s), band(s) or bar(s); Lines, horizontal
Serial Number	75003451
Filing Date	October 10, 1995
Current Filing Basis	1A
Original Filing Basis	1A
Published for Opposition	July 9, 1996
Registration Number	2031813
Registration Date	January 21, 1997
Owner	(REGISTRANT) Saf-T-Gard International, Inc. CORPORATION ILLINOIS 205 Huehl Road Northbrook ILLINOIS 60062
Attorney of Record	HERBERT J. SINGER
Type of Mark	TRADEMARK
Register	PRINCIPAL
Affidavit Text	SECT 15. SECT 8 (6-YR). SECTION 8(10-YR) 20060921.
Renewal	1ST RENEWAL 20060921
Live/Dead Indicator	LIVE



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Word Mark	DURA GARD
Goods and Services	IC 009. US 021 023 026 036 038. G & S: electrical plugs and connectors. FIRST USE: 19951026. FIRST USE IN COMMERCE: 19951130
Mark Drawing Code	(3) DESIGN PLUS WORDS, LETTERS, AND/OR NUMBERS
Design Search Code	01.15.08 - Drops (rain, tear, etc.); Raindrops; Teardrops
Serial Number	74709723
Filing Date	August 1, 1995
Current Filing Basis	1A
Original Filing Basis	1B
Published for Opposition	April 30, 1996
Registration Number	2099975
Registration Date	September 23, 1997
Owner	(REGISTRANT) AMERACE CORP. CORPORATION DELAWARE 2 North Riverside Plaza Chicago ILLINOIS 60606 (LAST LISTED OWNER) THOMAS & BETTS INTERNATIONAL, INC. CORPORATION BY ASSIGNMENT DELAWARE 250 LILLARD DR. SPARKS NEVADA 89434
Assignment Recorded	ASSIGNMENT RECORDED
Attorney of Record	G. ANDREW BARGER
Type of Mark	TRADEMARK
Register	PRINCIPAL
Affidavit Text	SECT 15. SECT 8 (6-YR).
Live/Dead Indicator	LIVE



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Typed Drawing

Word Mark	DURA-GARD
Goods and Services	IC 001. US 006. G & S: AEROSOL LEAD-SULFURIC ACID VEHICLE STORAGE BATTERY CLEANER AND PROTECTOR WITH BUILT-IN ACID INDICATOR. FIRST USE: 19720905. FIRST USE IN COMMERCE: 19720905
Mark Drawing Code	(1) TYPED DRAWING
Design Search Code	
Serial Number	73001680
Filing Date	September 24, 1973
Current Filing Basis	1A
Original Filing Basis	1A
Registration Number	1023529
Registration Date	October 28, 1975
Owner	(REGISTRANT) NATIONAL CHEMSEARCH CORPORATION CORPORATION DELAWARE P.O. BOX 2170 IRVING TEXAS 75060 (LAST LISTED OWNER) NCH CORPORATION CORPORATION BY MERGER AND CHANGE OF NAME FROM DELAWARE 2727 CHEMSEARCH BOULEVARD IRVING TEXAS 75062
Assignment Recorded	ASSIGNMENT RECORDED
Attorney of Record	Bonnie Bowes Reinke
Type of Mark	TRADEMARK
Register	PRINCIPAL
Affidavit Text	SECT 15. SECT 8 (6-YR). SECTION 8(10-YR) 20060111.
Renewal	2ND RENEWAL 20060111
Live/Dead Indicator	LIVE



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Typed Drawing

Word Mark	DURA-GARD
Goods and Services	IC 020. US 032. G & S: Mattresses and Box Springs. FIRST USE: 19621026. FIRST USE IN COMMERCE: 19621026
Mark Drawing Code	(1) TYPED DRAWING
Design Search Code	
Serial Number	72159920
Filing Date	December 28, 1962
Current Filing Basis	1A
Original Filing Basis	1A
Registration Number	0766372
Registration Date	March 10, 1964
Owner	(REGISTRANT) Sealy, Incorporated d.b.a. Sealy Mattress Company CORPORATION DELAWARE 666 N. Lake Shore Dr. Chicago ILLINOIS (LAST LISTED OWNER) SEALY TECHNOLOGY LLC LTD LIAB CO NORTH CAROLINA ONE OFFICE PARKWAY TRINITY NORTH CAROLINA 27370
Assignment Recorded	ASSIGNMENT RECORDED
Type of Mark	TRADEMARK
Register	PRINCIPAL
Affidavit Text	SECT 15. SECTION 8(10-YR) 20040420.
Renewal	2ND RENEWAL 20040420
Live/Dead Indicator	LIVE



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Word Mark	DURAGARD
Goods and Services	IC 001. US 001 005 006 010 026 046. G & S: HYDRAULIC FLUID AND TRANSMISSION FLUID FOR FARM AND INDUSTRIAL EQUIPMENT. FIRST USE: 19951201. FIRST USE IN COMMERCE: 19951201
	IC 004. US 001 006 015. G & S: MOTOR OIL, GEAR AND BEARING LUBRICANTS FOR FARM AND INDUSTRIAL EQUIPMENT. FIRST USE: 19951201. FIRST USE IN COMMERCE: 19951201
Standard Characters Claimed	
Mark Drawing Code	(4) STANDARD CHARACTER MARK
Design Search Code	
Serial Number	76634475
Filing Date	March 28, 2005
Current Filing Basis	1A
Original Filing Basis	1A
Published for Opposition	December 20, 2005
Registration Number	3089245
Registration Date	May 9, 2006
Owner	(REGISTRANT) Advantage Dist. LLC LTD LIAB CO MINNESOTA 3434 Marion Road SE Rochester MINNESOTA 55904
Attorney of Record	William J. Ryan
Type of Mark	TRADEMARK
Register	PRINCIPAL
Live/Dead Indicator	LIVE



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Typed Drawing

Word Mark	DURAGARD
Goods and Services	IC 009. US 021 023 026 036 038. G & S: Electrical Plugs and Connectors. FIRST USE: 19951130. FIRST USE IN COMMERCE: 19951130
Mark Drawing Code	(1) TYPED DRAWING
Design Search Code	
Serial Number	76355139
Filing Date	January 4, 2002
Current Filing Basis	1A
Original Filing Basis	1A
Published for Opposition	August 27, 2002
Registration Number	2651854
Registration Date	November 19, 2002
Owner	(REGISTRANT) THOMAS & BETTS INTERNATIONAL, INC. CORPORATION DELAWARE 250 LILLARD DRIVE SPARKS NEVADA 89434
Attorney of Record	G. ANDREW BARGER
Prior Registrations	2099975;2111116
Type of Mark	TRADEMARK
Register	PRINCIPAL
Live/Dead Indicator	LIVE



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Typed Drawing

Word Mark	DURAGARD
Goods and Services	IC 017. US 001 005 012 013 035 050. G & S: Polymeric overlay material for use on plastic cards for the purposes of added protection and to render the information and images on the plastic cards more secure. FIRST USE: 19970531. FIRST USE IN COMMERCE: 19970531
Mark Drawing Code	(1) TYPED DRAWING
Design Search Code	
Serial Number	75979141
Filing Date	March 20, 1997
Current Filing Basis	1A
Original Filing Basis	1B
Published for Opposition	April 27, 1999
Registration Number	2356310
Registration Date	June 6, 2000
Owner	(REGISTRANT) DataCard Corporation CORPORATION DELAWARE 11111 Bren Road West, P.O. Box 9355 Minneapolis MINNESOTA 55440
Attorney of Record	CASSANDRA VOIGT
Type of Mark	TRADEMARK
Register	PRINCIPAL
Affidavit Text	SECT 8 (6-YR).
Live/Dead Indicator	LIVE



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Word Mark	DURAGARD
Goods and Services	IC 009. US 021 023 026 036 038. G & S: electrical plugs and connectors. FIRST USE: 19951026. FIRST USE IN COMMERCE: 19951130
Mark Drawing Code	(5) WORDS, LETTERS, AND/OR NUMBERS IN STYLIZED FORM
Design Search Code	
Serial Number	74709722
Filing Date	August 1, 1995
Current Filing Basis	1A
Original Filing Basis	1B
Published for Opposition	May 21, 1996
Registration Number	2111116
Registration Date	November 4, 1997
Owner	(REGISTRANT) AMERACE CORP. CORPORATION DELAWARE 2 North Riverside Plaza Chicago ILLINOIS 60606 (LAST LISTED OWNER) THOMAS & BETTS INTERNATIONAL, INC. CORPORATION BY ASSIGNMENT, BY ASSIGNMENT DELAWARE 150 LILLARD DRIVE SPARKS NEVADA 89434
Assignment Recorded	ASSIGNMENT RECORDED
Attorney of Record	G. ANDREW BARGER
Type of Mark	TRADEMARK
Register	PRINCIPAL
Affidavit Text	SECT 15. SECT 8 (6-YR).
Live/Dead Indicator	LIVE



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Typed Drawing

Word Mark	DURA-GUARD
Goods and Services	IC 019. US 001 012 033 050. G & S: lumber; wood siding. FIRST USE: 20010411. FIRST USE IN COMMERCE: 20010411
Mark Drawing Code	(1) TYPED DRAWING
Design Search Code	
Serial Number	78239580
Filing Date	April 18, 2003
Current Filing Basis	1A
Original Filing Basis	1A
Published for Opposition	January 13, 2004
Registration Number	2899508
Registration Date	November 2, 2004
Owner	(REGISTRANT) Hoover Treated Wood Products, Inc. CORPORATION DELAWARE 154 Wire Road P.O. Box 746 Thomson GEORGIA 30824
Attorney of Record	Stanley M. Erjavac/Geoffrey D. Aurini
Prior Registrations	1563376
Type of Mark	TRADEMARK
Register	PRINCIPAL
Live/Dead Indicator	LIVE



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Typed Drawing

Word Mark	DURA-GUARD
Goods and Services	IC 005. US 006 018 044 046 051 052. G & S: processed, sterile animal tissues for use as surgical implants. FIRST USE: 19950401. FIRST USE IN COMMERCE: 19950401
Mark Drawing Code	(1) TYPED DRAWING
Design Search Code	
Serial Number	75599869
Filing Date	December 4, 1998
Current Filing Basis	1A
Original Filing Basis	1B
Published for Opposition	July 4, 2000
Registration Number	2510881
Registration Date	November 20, 2001
Owner	(REGISTRANT) Bio-Vascular, Inc. CORPORATION MINNESOTA 2575 University Avenue St. Paul MINNESOTA 55114
Assignment Recorded	ASSIGNMENT RECORDED
Attorney of Record	David C. West
Prior Registrations	2008128
Type of Mark	TRADEMARK
Register	PRINCIPAL
Live/Dead Indicator	LIVE



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Typed Drawing

Word Mark	DURA-GUARD
Goods and Services	IC 010. US 026 039 044. G & S: processed sterile animal pericardial tissue for use as an implant in cranial surgery in humans. FIRST USE: 19950401. FIRST USE IN COMMERCE: 19950401
Mark Drawing Code	(1) TYPED DRAWING
Design Search Code	
Serial Number	74732097
Filing Date	September 21, 1995
Current Filing Basis	1A
Original Filing Basis	1A
Published for Opposition	July 23, 1996
Registration Number	2008128
Registration Date	October 15, 1996
Owner	(REGISTRANT) Bio-Vascular, Inc. CORPORATION MINNESOTA 2575 University Avenue St. Paul MINNESOTA 551141024 (LAST LISTED OWNER) SYNOVIS LIFE TECHNOLOGIES, INC. CORPORATION BY CHANGE OF NAME MINNESOTA 2575 UNIVERSITY AVENUE SUITE 180 ST. PAUL MINNESOTA 551141024
Assignment Recorded	ASSIGNMENT RECORDED
Attorney of Record	DEAN R. KARAU
Type of Mark	TRADEMARK
Register	PRINCIPAL
Affidavit Text	SECT 15. SECT 8 (6-YR). SECTION 8(10-YR) 20061202.
Renewal	1ST RENEWAL 20061202
Live/Dead Indicator	LIVE



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Typed Drawing

Word Mark	DURA GUARD
Goods and Services	IC 011. US 034. G & S: COMMERCIAL GAS WATER HEATERS. FIRST USE: 19861118. FIRST USE IN COMMERCE: 19861118
Mark Drawing Code	(1) TYPED DRAWING
Design Search Code	
Serial Number	73798252
Filing Date	May 8, 1989
Current Filing Basis	1A
Original Filing Basis	1A
Published for Opposition	February 6, 1990
Registration Number	1594072
Registration Date	May 1, 1990
Owner	(REGISTRANT) RHEEM MANUFACTURING COMPANY CORPORATION DELAWARE 1100 Abernathy Road, N.E., Suite 1400 500 Northpark Town Center Atlanta GEORGIA 30328
Assignment Recorded	ASSIGNMENT RECORDED
Type of Mark	TRADEMARK
Register	PRINCIPAL
Affidavit Text	SECT 15. SECT 8 (6-YR). SECTION 8(10-YR) 20001205.
Renewal	1ST RENEWAL 20001205
Live/Dead Indicator	LIVE



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Typed Drawing

Word Mark	DURA-GUARD
Goods and Services	IC 017. US 001. G & S: THERMOPLASTIC GREENHOUSE FILM. FIRST USE: 19841101. FIRST USE IN COMMERCE: 19841101
Mark Drawing Code	(1) TYPED DRAWING
Design Search Code	
Serial Number	73642910
Filing Date	February 4, 1987
Current Filing Basis	1A
Original Filing Basis	1A
Published for Opposition	May 26, 1987
Registration Number	1453204
Registration Date	August 18, 1987
Owner	(REGISTRANT) C-I-L INC. CORPORATION CANADA 90 SHEPPARD AVENUE EAST NORTH YORK, ONTARIO CANADA (LAST LISTED OWNER) AT PLASTIC INC. CORPORATION ASSIGNEE OF CANADA 142 Kennedy Road South Brampton, Ontario CANADA L6W 3G4
Assignment Recorded	ASSIGNMENT RECORDED
Attorney of Record	Midge M. Hyman
Type of Mark	TRADEMARK
Register	PRINCIPAL
Affidavit Text	SECT 15. SECT 8 (6-YR).
Live/Dead Indicator	LIVE